



30 JUN 2006

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| In re Application of | : | |
| BETZ, Michael et al. | : | |
| Application No.: 10/520,570 | : | |
| PCT No.: PCT/EP03/07346 | : | DECISION ON |
| Int. Filing Date: 08 July 2003 | : | |
| Priority Date: 09 July 2002 | : | PETITION |
| Attorney Docket No.: BP/G-32576A/BCK | : | |
| For: LIQUID FORMULATIONS WITH A | : | UNDER 37 CFR 1.47(a) |
| HIGH CONCENTRATION OF HUMAN | : | |
| GROWTH HORMONE (HGH) | : | |
| COMPRISING GLYCINE | : | |

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 16 December 2005.

BACKGROUND

On 08 July 2003, applicants filed international application PCT/EP03/07346, which claimed a priority date of 09 July 2002. A copy of the international application was transmitted to the Office on 15 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 January 2005.

On 07 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 16 December 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3), and (4) have been satisfied. The \$200 petition fee will be charged to deposit account no. 19-0134, as authorized. Applicants list Michael Betz's address as Jagerstrasse 1, 8200 Schaffhauser, Switzerland. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. The inventor acknowledges receipt of assignment documents in his letter, not the application papers and declaration. A declaration from someone with firsthand knowledge of the facts recited therein should be provided from the person who presented the papers to the non-signing inventor or the person who prepared the mailing sent to the inventor. A return mail receipt or a declaration from someone who spoke with the inventor confirming the receipt of the documents or other supporting documentation supporting applicants' allegation of refusal to join after presentation with a complete copy of the application papers should be included. MPEP 409.03(d).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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